Calendar No. 218

102D CONGRESS *1st Session*	SENATE	REPORT 102-145

STRIPED BASS ACT OF 1991

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

H.R. 2387

SEPTEMBER 11 (legislative day, SEPTEMBER 10), 1991.—Ordered to be printed

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STRIPED BASS ACT OF 1991

SEPTEMBER 11 (legislative day, SEPTEMBER 10), 1991 —Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany H.R. 2387]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 2387) to authorize appropriations for certain programs for the conservation of striped bass, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

H.R. 2387 authorizes appropriations for fiscal years (FY) 1992 through 1994 to conserve and manage Atlantic striped bass, amends and extends the Atlantic Striped Bass Conservation Act, and amends the provisions of the Anadromous Fish Conservation Act relating to striped bass research.

BACKGROUND AND NEEDS

ANADROMOUS FISH CONSERVATION ACT

The Anadromous Fish Conservation Act was enacted in 1965 for the purpose of managing, conserving, and enhancing the Nation's anadromous fishery resources. Anadromous fish are those species, such as striped bass, which live in marine waters during their adult lives and then return to freshwater rivers to spawn. This 1965 Act establishes the only comprehensive Federal grants program designed to protect and enhance U.S. anadromous fishery resources.

The Atlantic striped bass is a fish that migrates through coastal waters from North Carolina to Maine and is highly prized by both recreational and commercial fishermen. In the late 1970s, a sharp

drop in commercial striped bass harvests signaled a serious decline in these stocks. In 1979, Congress responded to questions about the cause of this decline by passing legislation mandating comprehensive studies on Atlantic striped bass populations under the Anadromous Fish Conservation Act. Over the past 12 years, these studies have provided the scientific data for management of the Atlantic striped bass fishery. The authorization of appropriations for the studies expires at the end of the current fiscal year.

ATLANTIC STRIPED BASS CONSERVATION ACT

In 1984, continuing problems in the Atlantic striped bass fishery provided the impetus for enactment of the Atlantic Striped Bass Conservation Act to manage and conserve the striped bass resource. That Act calls for Federal-State cooperation in implementing and enforcing an interstate fishery management plan for striped bass developed by the Atlantic States Marine Fisheries Commission (Commission). The interstate plan establishes guidelines for State regulation of striped bass harvests in coastal waters. Under the Act, the Commission reviews State regulatory and enforcement programs annually to determine whether they are in compliance with the interstate plan. The Secretaries of Commerce and the Interior are jointly authorized to declare a moratorium on striped bass fishing in any State determined to be out of compliance. Under existing law, the Federal authority to impose a moratorium expires on September 30, 1991.

This Federal authority has been effective in encouraging State compliance with interstate conservation efforts and has played an important role in the ongoing recovery of Atlantic striped bass stocks. The threat of Federal intervention has permitted the Commission to orchestrate an aggressive conservation program by the States and achieve uniform management across several State jurisdictions. Although recent scientific evidence has generated cautious optimism among fishery managers about the future of the striped bass resource, sustained recovery of the Atlantic stock will require continued commitment of the States to a conservative management regime.

Legislative History

H.R. 2387 was introduced by Representatives Studds and Young on May 17, 1991. The Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Committee on Merchant Marine and Fisheries held a hearing on the bill on May 30, 1991. On June 27, 1991, the Committee on Merchant Marine and Fisheries reported the bill, which was passed by the House on July 9, 1991.

On May 21, 1991, the full Committee and National Ocean Policy Study held a hearing on the FY 1992 authorization of appropriations for the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce. Striped bass management was discussed in the context of NOAA fishery programs. Mr. Amos Eno, Director of Conservation Programs at the National Fish and Wildlife Foundation, presented the results of the Foundation's review of NOAA fishery programs, providing several recom-

mendations, including one in support of continued Federal authority to impose a moratorium on Atlantic striped bass fishing.

On July 30, 1991, the Committee considered H.R. 2387 in open executive session and, without objection, ordered the bill to be reported without amendment.

Summary of Major Provisions

H.R. 2387 authorizes such sums as may be necessary through FY 1994 for the Atlantic Striped Bass Conservation Act and $1 million for each fiscal year through FY 1994 for striped bass research under the Anadromous Fish Conservation Act. The legislation also extends, until September 30, 1994, Federal authority to impose a moratorium under the Atlantic Striped Bass Conservation Act. It also amends the Atlantic Striped Bass Conservation Act to provide for Federal enforcement of a moratorium and authorize cooperative agreements between the Commission and the Secretaries of Commerce and the Interior. Finally, H.R. 2387 amends the Anadromous Fish Conservation Act, altering the scope of striped bass studies in order to provide information to meet current fishery management needs.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 2, 1991.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 2387, the Striped Bass Act of 1991. Enactment of H.R. 2387 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 2387.
2. Bill title: Striped Bass Act of 1991.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, July 30, 1991.
4. Bill purpose: H.R. 2387 would amend Public Law 98-613, the Atlantic Striped Bass Conservation Act, and would authorize funding for programs under that act for fiscal years 1992 through 1994. The act would also reauthorize Section 7 of the Anadromous Fish

Conservation Act at its current annual level of $1 million through fiscal year 1994.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
Estimated Authorization Level	2	2	2		
Estimated Outlays	2	2	2		

The costs of the act fall within budget function 300.

Basis of estimate: For purposes of this estimate, it is assumed that H.R. 2387 will be enacted by October 1, 1991 ad that all sums authorized will be appropriated for fiscal years 1992 through 1994. Based on information from the Departments of Commerce and the Interior, CBO estimates that about $1 million would be required in each year for federal agencies' activities authorized by the Atlantic Striped Bass Conservation Act, primarily for the comprehensive annual survey required by Section 6 of the act.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. CBO estimates that enactment of H.R. 2387 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the act.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On July 8, 1991, CBO prepared a cost estimate for H.R. 2387 as ordered reported by the House Committee on Merchant Marine and Fisheries on June 27, 1991. The two estimates are identical.

10. Estimate prepared by: Deborah Reis.

11. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

H.R. 2387, as reported, reauthorizes and makes a number of changes to the current provisions of the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act. One such change provides that the enforcement actions currently authorized by the Magnuson Fishery Conservation and Management Act may be used by Federal agents to enforce a Federal moratorium under the Atlantic Striped Bass Act. The Secretaries of Commerce and the Interior are authorized to issue regulations to implement this new authority. As a result, participants in a State striped bass fishery for which a moratorium has been declared may be subject to additional Federal regulations. However, the Committee anticipates minimal effect on the number or type of individuals regulated under these Acts, the economic impact of such regula-

tions, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

SECTION-BY-SECTION ANALYSIS

SECTION 1.—SHORT TITLE

This section provides the short title of the bill, the "Striped Bass Act of 1991."

SECTION 2.—ATLANTIC STRIPED BASS CONSERVATION ACT ENFORCEMENT, REAUTHORIZATION, AND EXTENSION

This section would amend the Atlantic Striped Bass Conservation Act of 1984. Subsection (a) would amend section 5(e) of the Act to give the Secretaries of Commerce and the Interior the same enforcement authorities under the Atlantic Striped Bass Conservation Act that the Secretary of Commerce has under the Magnuson Fishery Conservation and Management Act. This subsection also would authorized the Secretaries to issue regulations to implement this enforcement authority.

Subsection (b) would provide a 3-year authorization for such sums as may be necessary, through FY 1994. It also would add a new subsection to section 7 of the Atlantic Striped Bass Conservation Act, allowing the Secretaries to enter into cooperative agreements with the Commission. The Commission has a central role in developing the interstate plan to manage Atlantic striped bass and in monitoring each State's implementation and enforcement programs. However, up to the present, the Commission has received little Federal funding to assist it in carrying out these responsibilities. By providing the authority to enter into cooperative agreements, the Committee intends to ensure that the Commission has adequate financial support to meet effectively its obligations under the Act.

Subsection (c) would amend section 9 of the Act, extending through FY 1994 the authority of the Secretaries of Commerce and the Interior to declare a moratorium on striped bass fishing in States that are not in compliance.

SECTION 3.—REAUTHORIZATION OF STRIPED BASS STUDIES UNDER ANADROMOUS FISH CONSERVATION ACT

Subsection (a) would amend Section 7(a) of the Anadromous Fish Conservation Act to change to scope of the scientific studies that the Secretary of the Interior is authorized to conduct on the anadromous stocks of Atlantic striped bass. The amendment would provide that such studies include: estimates of recruitment, mortality rates, and other population parameters; investigation of factors affecting the abundance of striped bass; and monitoring of population abundance and age and sex composition of striped bass stocks.

Subsection (b) would amend section 7(d) of that Act by extending the authorization of appropriations at the current annual level of $1 million through FY 1994.

SECTION 4.—FISHERY MANAGEMENT PLAN ON STRIPED BASS

This section would amend section 6 of the Act entitled "An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes" (P.L. 100–589). Section 4 of the bill would strike section 6(c) of that 1988 Act, which authorizes the Regional Fishery Management Councils to prepare a fishery management plan for Atlantic striped bass in Federal waters off the east coast. The Secretary of Commerce has issued regulations banning striped bass fishing in Federal waters, obviating the need for such Council authority. This section of the bill also would delete the subsection which restricts to a limited effective period the regulation of fishing in Federal waters.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

ATLANTIC STRIPED BASS CONSERVATION ACT

Section 5 of that Act

SEC. 5. MORATORIUM.

(a) through (d) * * *

(e) ENFORCEMENT.—*(1)* The Secretaries shall enforce a moratorium declared under section 4(b). The Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a coastal State in carrying out that enforcement.

(2) ENFORCEMENT AUTHORITY.—A person authorized by the Secretaries may take any action to enforce a moratorium declared under section 4(b) that an officer authorized by the Secretary under section 311(b) of the Magnuson Fishery Conservation and Management Act may take to enforce that Act.

(3) REGULATIONS.—The Secretaries may issue regulations to implement this subsection.

Section 7 of that Act

SEC. 7. AUTHORIZATION OF APPROPRIATIONS; *COOPERATIVE AGREEMENTS.*

(a) AUTHORIZATION.—For each of fiscal years 1986, 1987, 1988, 1989, 1990, [and 1991,] *1991, 1992, 1993, and 1994,* there are authorized to be appropriated such sums as may be necessary or appropriate to carry out this Act.

(b) COOPERATIVE AGREEMENTS.—The Secretaries may enter into cooperative agreements with the Atlantic States Marine Fisheries Commission for the purpose of using amounts appropriated pursuant to this section to provide financial assistance to the Commission for carrying out its functions under this Act.

Section 9 of that Act

SEC. 9. EFFECTIVE PERIOD.

Sections 1 through 8 shall take effect upon enactment of this Act and shall cease to have force and effect at the close of September 30, [1991.] *1994.*

ANADROMOUS FISH CONSERVATION ACT

Section 7 of that Act

[SEC. 7. (a) The Secretary shall cooperate with States and other non-Federal interests in conducting studies of—

[(1) the size and distribution of the population of striped bass (Morone saxatilis), including, but not limited to, studies to determine the amount and geographical location of annual spawning; and

[(2) the factors responsible for the decline in the number of striped bass that are available to the public for recreational and commercial use, including, but not limited to—

[(A) analyses of the extent and causes of mortality at successive stages in the life cycle of striped bass,

[(B) a determination of the effects of pollution on the viability and condition of eggs and larval fish, and

[(C) a survey of the economic importance of recreational and commercial striped bass fisheries.]

SEC. 7. (a) CONDUCT AND SCOPE OF STUDIES.—The Secretary shall cooperate with States and other non-Federal interests in conducting scientific studies of the anadromous stocks of Atlantic striped bass. These studies shall include, but not be limited to—

(1) estimates of recruitment, spawning potential, mortality rates, stock composition of coastal fisheries, and other population parameters;

(2) investigations of factors affecting abundance of striped bass, including analyses of the extent and causes of mortality at successive life stages; and

(3) monitoring population abundance and age and sex composition of striped bass stocks on fishery-dependent and fishery-independent data.

(b) through (c) * * *

(d) There are authorized to be appropriated for the purposes of carrying out the studies described in subsection (a) of this section not to exceed $1,000,000 for each of the fiscal years [1988, 1989, 1990, and 1991.] *1991, 1992, 1993, and 1994.* Funds authorized to be appropriated by this subsection are in addition to any funds authorized by section 4 which may be used for projects involving or affecting striped bass. [If the Secretary considers that the studies described in subsection (a) should be continued after September 30, 1982, the Secretary shall inform the Congress in writing before February 15, 1981, of the reasons why and for how long such continuation is believed to be warranted.]

THE ACT OF NOVEMBER 3, 1988

Section 6 of that Act

SEC. 6. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.

(a) through (b) * * *

[(c) FISHERY MANAGEMENT PLAN ON STRIPED BASS.—

[(1) The appropriate Regional Fishery Management Councils may prepare a fishery management plan on Atlantic striped bass, which if approved and implemented by the Secretary shall supersede any regulations promulgated under subsection (a). Such plan shall—

[(A) meet the requirements of sections 301 and 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 and 1853);

[(B) apply to all fishing for Atlantic striped bass within the exclusive economic zone; and

[(C) ensure the effectiveness of the Plan of the Atlantic States Marine Fisheries Commission defined under section 3(7) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note).

[(2) The Secretary shall review such fishery management plan pursuant to section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) and shall approve the plan if it meets the requirements of paragraph (1) and other provisions of this section. The Secretary shall implement the plan by promulgating regulations in accordance with section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855). No regulation promulgated under subsection (a) shall have force and effect during any period in which regulations implementing such plan are in effect.]

(d) APPLICABILITY OF MAGNUSON ACT PROVISIONS.—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations and any plan issued under subsection (a) [or (c)] of this section as if such regulations or plan were issued under the Magnuson Fishery Conservation and Management Act.

(e) * * *

[(f) EFFECTIVE PERIOD.—Subsections (a) through (e) of this section shall cease to have force and effect at the close of September 30, 1991.]

(g) * * *

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